

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TANIELLE SHURNEY,

Plaintiff,

vs.

No. CA 05-196 Erie
CIVIL ACTION
ELECTRONICALLY FILED PLEADING

**SCOTT'S ECONO INN, INC.
SCOTT'S SPLASH LAGOON, INC.**

**SEAN PIERCE, INDIVIDUALLY AND
IN
HIS CAPACITY AS A TROOPER OF
THE PENNSYLVANIA STATE POLICE**

**JOHN DOE, INDIVIDUALLY AND IN
HIS CAPACITY AS THE SUPERVISOR
OF TROOPER SEAN PIERCE OF THE
PENNSYLVANIA STATE POLICE**

Defendants

**DEFENDANT SCOTT'S SPLASH
LAGOON, INC.'S PRE-TRIAL
NARRATIVE STATEMENT**

Filed on behalf of Scott's Splash Lagoon,
Inc.

Counsel of Record for these parties:

Gary D. Bax, Esq.

MURPHY TAYLOR, L.L.C.
900 State Street, Suite 202
Erie, Pennsylvania 16501
Telephone: (814) 459-0234
Fax: (814) 456-2540
Email: G_Bax@msn.com
PA38520

JURY TRIAL DEMANDED

DEFENDANT SCOTT'S SPLASH LAGOON, INC.'S
PRE-TRIAL NARRATIVE STATEMENT

NOW COMES the Defendant, Scott's Splash Lagoon, Inc., by and through its attorneys, Murphy Taylor, L.L.C., and states the following:

I. FACTS AND BACKGROUND

This lawsuit arises from the fraudulent use of a debit card number to purchase a hotel reservation at Splash Lagoon Resort and Econolodge on Peach Street, in Erie, Pennsylvania. On July 3, 2004, Plaintiff Tanielle Shurney was arrested by Pennsylvania State Police Trooper Sean Pierce after registering for a room under a reservation made in her name and purchased with a stolen debit card number.

Plaintiff brought this action pursuant to 42 U.S.C. §1983, and Plaintiff attempts to state false arrest or false imprisonment claims.

The owner and victim of the stolen debit card number is Tonya Traylor. She will testify that she discovered that someone used her debit card number without her authorization for four purchases; that as a result of this unauthorized use her bank account was debited \$198.79 for reservations at Splash Lagoon; and, that she reported this incident to Officer Jon Hurley of the Streetsboro, Ohio Police Department.

Officer Hurley is the lead investigator for the criminal complaint filed by Tonya Traylor. He will testify that he contacted the Splash Lagoon reservation center, and instructed employees at Splash Lagoon or Econolodge to contact the Pennsylvania State Police when the reservation was claimed.

The evidence will show that Tanielle Shurney attempted to register at the Econolodge and claim the fraudulently purchased reservation on July 3, 2004. An Econolodge employee notified the state police pursuant to Officer Hurley's instructions, and the Plaintiff was subsequently arrested.

Splash Lagoon will establish at trial that Tanielle Shurney contacted Splash Lagoon on three occasions concerning the reservation. Upon her arrest, Ms. Shurney had in her possession two photo IDs, one of which was not her own. Ms. Shurney subsequently was arraigned before a district justice, who found probable cause existed for her arrest and committed her to the Erie County Prison. Ms. Shurney attempted to make bail, but did not obtain her release from prison until July 9, 2004 because of a mixup with her Cleveland and Erie bail bondsmen.

II. LIABILITY AND LEGAL ISSUES

Defendant Splash Lagoon, Inc. is not liable to the Plaintiff. Defendant Splash Lagoon, Inc. and its employees were not state actors. Splash Lagoon employees did not initiate or instigate the arrest. No evidence exists that Splash Lagoon employees acted for any improper purpose.

Plaintiff has produced no evidence to establish that Scott's Splash Lagoon, Inc. has a policy of discriminating against African-Americans. No injunctive relief is warranted.

Defendant Splash Lagoon, Inc. reserves its right to call rebuttal and impeachment witnesses.

Defendant Splash Lagoon, Inc.'s summary judgment motion remains pending before this Court.

III. DAMAGES

Plaintiff Tanielle Shurney sustained no physical injury as a result of her arrest and incarceration. Under Pennsylvania law, general damages for false arrest are permitted only from the time of arrest until an arraignment before a neutral magistrate. Thus, Tanielle Shurney's general damages terminated as a matter of law when she received her preliminary arraignment on the day of her arrest.

Tanielle Shurney is not entitled to the recovery of any general or special damages. Strict proof of any claims for general and special damages are demanded at time of trial.

IV. WITNESSES

	<u>LIABILITY</u>	<u>DAMAGES</u>
1. Patricia Purchase Splash Lagoon Reservation Center 8091 Peach Street Erie, PA 16509	X	
2. Kristin Mooney Splash Lagoon Reservation Center 8091 Peach Street Erie, PA 16509	X	
3. Jeffrey Mona Splash Lagoon Inc. 8091 Peach Street Erie, PA 16509	X	
4. Sandy Calabris Econolodge 8050 Peach Street Erie, PA 16509	X	
5. Tonya Traylor 10039 Delores Street, Apt. B Streetsboro, OH 44241	X	

6.	Officer Jon M. Hurley Streetsboro Police Department 2080 State Route 303 Streetsboro OH 44241	X	
7.	Kim Peterson Keybank Manager of Debit Card Fraud 34 North Main Street Dayton, OH	X	
8.	Reginia Clein Keybank 34 North Main Street Dayton, OH	X	
9	Lane Bryant/Red Cats USA Fraud Manager 35 United Drive West Bridgewater, MA 02379	X	
10.	Trooper Sean Pierce Pennsylvania State Police 4320 Iroquois Ave. Erie, PA 16511	X	X
11.	Records Custodian Pennsylvania State Police 4320 Iroquois Ave. Erie, PA 16511	X	X
12.	Plaintiff Tanielle Shurney (as on cross)	X	X
13.	All of those individuals identified in Plaintiff's and Defendants' Initial Disclosures and Pre-Trial Narrative Statements	X	X
14.	Rebuttal and impeachment witnesses	X	X

Defendant Scott's Splash Lagoon, Inc. reserves its right to amend and supplement this list

of witnesses, up to and including time of trial.

V. EXHIBITS

1. Econolodge registration record.
2. Splash Lagoon reservation center documents.
3. Erie County Prison Inventory.
4. Streetsboro, Ohio Police Investigation records, including Tonya Traylor handwritten statement.
5. Keybank records and correspondence.
6. Pennsylvania State Police Investigation Documents.
7. Pennsylvania State Police charging documents, including Affidavit of Probable Cause.
8. Plaintiff's Answers to discovery.
9. Plaintiff's Answers to Requests for Admissions.
10. All Deposition transcripts and exhibits.
11. Rebuttal and impeachment documents and exhibits.
12. Any Exhibits listed in Plaintiff's and other Defendants' Pretrial Narrative Statements.

Defendant Scott's Splash Lagoon, Inc. reserves its right to amend and supplement this list of exhibits, up to and including time of trial.

VI. UNUSUAL QUESTIONS OF LAW

None.

VII. ESTIMATED TIME OF TRIAL

Two days.

Respectfully submitted,

MURPHY TAYLOR, L.L.C.

By: "s/"Gary D. Bax, Esq.

Gary D. Bax, Esq.

900 State Street, Suite 202

Erie, Pennsylvania 16501

Telephone: (814) 459-0234

Fax: (814)456-2540

Email: G_Bax@msn.com

PA38520

Attorneys for Scott's Splash Lagoon, Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

TANIELLE SHURNEY,

Plaintiff,

vs.

No. CA 05-196 Erie
CIVIL ACTION
ELECTRONICALLY FILED PLEADING

**SCOTT'S ECONO INN, INC.
SCOTT'S SPLASH LAGOON, INC.**

**SEAN PIERCE, INDIVIDUALLY AND
IN
HIS CAPACITY AS A TROOPER OF
THE PENNSYLVANIA STATE POLICE**

**JOHN DOE, INDIVIDUALLY AND IN
HIS CAPACITY AS THE SUPERVISOR
OF TROOPER SEAN PIERCE OF THE
PENNSYLVANIA STATE POLICE**

Defendants

CERTIFICATE OF SERVICE

Filed on behalf of Scott's Splash Lagoon,
Inc.

Counsel of Record for these parties:

Gary D. Bax, Esq.

MURPHY TAYLOR, L.L.C.
900 State Street, Suite 202
Erie, Pennsylvania 16501
Telephone: (814) 459-0234
Fax: (814) 456-2540
Email: G_Bax@msn.com
PA38520

JURY TRIAL DEMANDED

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of Defendant Scott's Splash Lagoon, Inc.'s Pre-Trial Narrative Statement was electronically served upon all counsel of record, this the 10th day of March, 2006.

Respectfully submitted,

MURPHY TAYLOR, L.L.C.

By: "s/"Gary D. Bax, Esq.
Gary D. Bax, Esq.
900 State Street, Suite 202
Erie, Pennsylvania 16501
Telephone: (814) 459-0234
Fax: (814)456-2540
Email: G_Bax@msn.com
PA38520
Attorneys for Scott's Splash Lagoon, Inc.